



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 204440

PRELIMINARY RECITALS

Pursuant to a petition filed February 15, 2022, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Northern IM Consortium regarding FoodShare benefits (FS), a hearing was held on March 16, 2022, by telephone.

The issue for determination is whether the agency correctly removed petitioner's daughter from her FS case for one month.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Wood County Human Services - WI Rapids
111 W Jackson St
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Price County. Wood County HS is the hub agency of the Northern Consortium.
2. Petitioner receives FS for a two-person household including her daughter. In the past petitioner and her daughter were included in an FS household led by petitioner's friend [REDACTED], with whom they lived for a period of time.

3. Petitioner was due to have a renewal completed by the end of January, 2022. On January 19, 2022, the agency sent petitioner a notice that her FS would close February 1, 2022 because she did not complete the renewal.
4. Petitioner completed the renewal on January 20, 2022. On January 24, 2022, the agency notified petitioner that FS for February would \$250 for just petitioner, and that FS for March would be \$459 for petitioner and her daughter. Petitioner's daughter was not included in the February FS allotment because she was added to [REDACTED]'s ongoing case for that month, increasing [REDACTED]'s FS by \$183.

DISCUSSION

An FS recipient must do a periodic renewal to continue eligibility. 7 C.F.R. §273.14. Failure to complete a renewal results in the closing of the case. If the renewal is not completed until after the case is closed because of household error or inaction, the FS are not issued in full. Instead, the case is treated as a new application, and benefits are to be prorated as of the date of the renewal. 7 C.F.R. §273.14(e)(3); FS Handbook, Appendix 2.2.1.4.

7 C.F.R. §272.4(e)(1) provides as follows: "Each State agency shall establish a system to assure that no individual participates more than once in a month, in more than one jurisdiction, or in more than one household within the State in the Food Stamp Program." As a result, the FS Handbook, Appendix 3.4.1 provides that a person cannot be a member of more than one food unit in the same month, with an exception of residents of shelters for battered persons.

I have seen this situation play out in the past where a recipient's case closes for lack of review, and the child is added to an alternate caretaker's open case (usually the other parent). This case is distinguished in that petitioner's FS never actually closed – she completed her renewal 11 days before the end of the certification period. Furthermore, the alternative case was headed by a person who never was the child's caretaker; she was simply a random adult who at one time shared FS with petitioner.

Adding petitioner's daughter to [REDACTED]'s case was an egregious agency error, admittedly an error within the program's computer program. I conclude that the prohibition under 7 C.F.R. §272.4(e)(1) against a person being on two FS issuances in the same month must be subordinated to the rule that the agency shall restore benefits which were lost due to agency error, 7 C.F.R. §273.17(a)(1). Petitioner thus should receive a supplement of \$209 (\$459 that would have been issued minus \$250 actually issued). The agency may choose to pursue FS recovery from the other household to recover an agency error overpayment; that issue not before me here.

CONCLUSIONS OF LAW

Although petitioner's daughter was included in another FS household in February, 2022, the inclusion was due to agency error, and petitioner's correct FS should be restored under the provision of 7 C.F.R. §273.17(a)(1).

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to issue petitioner a \$209 FS supplement for February, 2022 for her daughter, within 10 days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

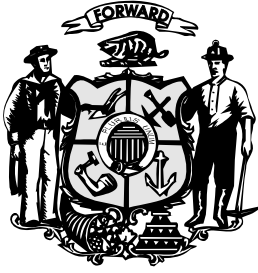
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 21st day of March, 2022



\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 21, 2022.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability